

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MARK FULTZ, §  
§  
*Plaintiffs*, §  
§  
v. § Civil Action No. 3:20-CV-03367-X  
§  
RHP HOSPITALITY GT LP, §  
§  
*Defendant*. §  
§

**MEMORANDUM OPINION AND ORDER**

On November 11, 2020, Mark Fultz brought this action against RHP Hospitality GT LP for alleged violations of the Americans with Disabilities Act.

The Northern District of Texas is a proper venue.<sup>1</sup> But this Court has multiple divisions, and the Fort Worth Division—not the Dallas Division—is the superior division for this case. Barring any objections, the Court **TRANSFERS** this case to the United States District Court for the Northern District of Texas in the Fort Worth Division. The Court **GRANTS LEAVE** to the parties to file briefing stating their objections, if any, by November 26, 2020. In the meantime, the Court **ORDERS** plaintiff's counsel-of-record to appoint local counsel, in accordance with Local Rule 83.10, by November 26, 2020.<sup>2</sup>

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<sup>1</sup> The defendant's property is located within the Northern District of Texas. Venue is proper in "a judicial district in which . . . a substantial part of property that is the subject of the action is situated." 28 U.S.C. § 1131(b)(2). Because the Gaylord Texan Resort & Convention Center is located in the Northern District of Texas, venue is proper.

<sup>2</sup> See N.D. Tex. LR 83.10(a) ("Unless exempted by LR 83.11, local counsel is required in all cases where an attorney appearing in a case does not reside or maintain the attorney's principal office in this district. 'Local counsel' means a member of the bar of this court who resides or maintains the

## I.

Title 28, Section 1404 of the United States Code authorizes a district court to *sua sponte* “transfer any civil action to any other district or division where it might have been brought” for “the convenience of parties and witnesses, in the interest of justice[.]”<sup>3</sup> This statute codifies “the doctrine of *forum non conveniens* for the subset of cases in which the transferee forum is within the federal court system.”<sup>4</sup> “In cases where there is no forum-selection clause, district courts ‘must evaluate both the convenience of the parties and various public-interest considerations.’”<sup>5</sup> District courts analyze Section 1404(a) transfers with private- and public-interest factors:

Factors relating to the parties’ private interests include “relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive.” Public-interest factors may include “the administrative difficulties flowing from court congestion; the local interest in having localized controversies decided at home; [and] the interest in having the trial of a diversity case in a forum that is at home with the law.” The Court must also give some weight to the plaintiffs’ choice of forum.<sup>6</sup>

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attorney’s principal office in this district and whose residence or principal office is located within 50 miles of the courthouse in the division in which the case is pending.”).

<sup>3</sup> 28 U.S.C. § 1404(a); *see also Mills v. Beech Aircraft Corp., Inc.*, 886 F.2d 758, 761 (5th Cir. 1989) (“Such transfers may be made *sua sponte*.” (citing *Jarvis Christian Coll. v. Exxon Corp.*, 845 F.2d 523, 528 (5th Cir. 1988))).

<sup>4</sup> *Atl. Marine Constr. Co. v. U.S. Dist. Court for W. D. of Tex.*, 571 U.S. 49, 60 (2013).

<sup>5</sup> *DSA Promotions, LLC v. Vonage Am., Inc.*, 2018 WL 1071278, at \*2 (N.D. Tex. Feb. 27, 2018) (Fitzwater, J.) (quoting *Atl. Marine*, 571 U.S. at 62).

<sup>6</sup> *Atl. Marine*, 571 U.S. at 62, n. 6 (internal citations omitted).

Decisions to “effect 1404 transfers are committed to the sound discretion of the transferring judge, and review of a transfer is limited to abuse of that discretion.”<sup>7</sup>

## II.

The Court believes that private- and public-interest factors weigh in favor of transferring this case to the Fort Worth Division.

### A.

The Court first considers private-interest factors. First, the plaintiff resides in Broward County, Florida. Although courts afford some deference to a plaintiff’s choice of forum, the weight to be accorded “the plaintiff’s choice of forum is diminished, however, where she brings suit outside her home forum.”<sup>8</sup> Here, the plaintiff does not reside in the Dallas Division of this Court. The defendant’s property, the Gaylord Texan Resort & Convention Center, which is the subject of this action, is located in Tarrant County, Texas. Therefore, a transfer to the Fort Worth best serves the parties.

### B.

The Court also considers public-interest factors. First, the Dallas Division’s civil docket is busier than the Fort Worth Division’s civil docket. A transfer helps ensure the case’s expeditious resolution. Second, because Tarrant County is where

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<sup>7</sup> *Mills*, 886 F.2d at 761 (quoting *Jarvis Christian Coll.*, 845 F.2d at 528).

<sup>8</sup> *Sivertson v. Clinton*, 2011 WL 4100958 at \*3 (N.D. Tex. Sept. 14, 2011) (Fitzwater, C.J.) (citing *Santellano v. City of Goldthwaite*, 2011 WL 1429080, at \*2 (N.D. Tex. Apr. 14, 2011) (Fitzwater, C.J.)).

the defendant's property is located, it is in the public's interest for this controversy to be resolved locally. So, a transfer is in the interest of justice.

III.

For these reasons, barring any objections, the Court **TRANSFERS** this case to the United States District Court for the Northern District of Texas in the Fort Worth Division. The Court **GRANTS LEAVE** to the parties to file briefing providing their objections, if any, by November 26, 2020. In the meantime, the Court **ORDERS** plaintiffs' counsel-of-record to appoint local counsel, in accordance with Local Rule 83.10, by November 26, 2020.

**IT IS SO ORDERED** this 12th day of November 2020.



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BRANTLEY STARR  
UNITED STATES DISTRICT JUDGE